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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
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09/548,277      04/12/00      YAMAMOTO

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EXAMINER

CANFIELD, R

ART UNIT

PAPER NUMBER

3635

DATE MAILED:

10/03/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**09/548,277**

Applicant(s)  
**Yamamoto et al.**

Examiner  
**Robert Canfield**

Art Unit  
**3635**



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Apr 12, 2000
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Apr 12, 2000 is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☒ All b) ☐ Some\* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 20) ☐ Other:

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1. This is a first Office action on the merits for application serial number 09/548277 filed 04/12/00. Claims 1-17 are pending.
2. It is the examiner's understanding that a previous examiner had required restriction between group I, claims 1-11 and 17, and Group II, claims 12-16. A note in the file indicates that applicant had elected Group I, claims 1-11 and 17. The restriction requirement is vacated as Group II contains all of the particulars of Group I.
3. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.
4. Figures 14-18 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g).
5. The drawings are objected to because the separate figures grouped together under each of the headings of figure 7, figure 9 and figure 13 should each have their own figure heading and the specification amended accordingly (figure 7a, figure 7b...). The exploded view of figures 2 and 4 should be bracketed “}”. Vacuum insulated member 60 shown to the right of figure 2 should have its own heading and should not be linked to figure 2 with an arrow. Correction is required.

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6. The applicant should provide the examiner with copies of the foreign art cited throughout the specification in a properly filed IDS to insure consideration as the art is not readily available to the examiner.

7. Claim 1 is objected to because of the following informalities: at line 4 a space has inadvertently been omitted between the words "insulating" and "material". Appropriate correction is required.

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 1-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1 it is indefinite which of the one or more vacuum insulating members "said vacuum insulating member" references. Also in claim 1, it appears that "said vacuum insulation member" at lines 7 and 8 should be - - said one or more vacuum insulation members - -.

Claim 10 fails to particularly point out the invention as understood. It is unclear how the vacuum insulating member units can include storage portions. As understood the storage portions are separate members distinct from the vacuum member units and which house the units.

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In claim 12, "the space" lacks antecedent basis. Changing "the" to - - a - - would overcome.

Claims 13-16 fail to provide proper method steps. A method step tells the reader what to do typically using action verbs ending with "-ing". The language "is formed", "is positioned", "is stored" and "is sandwiched" is improper. The examiner suggests applicant amend to recited - - forming... - - and the like.

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1-3, 10-12, and 15-17 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,082,335 to Cur et al.

See the embodiment of figure 8 where the spaced blocks 40 are considered the filler insulation members.

12. Claims 4-9, 13 and 14 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112 set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Canfield whose telephone number is (703) 308-2482. The examiner can normally be reached on M-Th.

The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3597.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.

Robert Canfield

September 27, 2001

**Robert Canfield**  
**Primary Examiner**